

OCT 05 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RENO JAMES RUNS ABOVE,

Defendant - Appellant.

No. 08-30459

D.C. No. 1:08-CR-00084-RFC

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Montana
Richard F. Cebull, Chief District Judge, Presiding

Submitted September 14, 2009^{**}

Before: SILVERMAN, RAWLINSON, and CLIFTON, Circuit Judges.

Reno James Runs Above appeals from the 180-month sentence imposed following his guilty-plea conviction for being an accessory after the fact, in violation of 18 U.S.C. § 3. We have jurisdiction pursuant to 28 U.S.C. § 1291, and

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

we affirm.

Runs Above contends that the district court erred by applying a five-level upward departure for extreme conduct pursuant to U.S.S.G. § 5K2.8, and alternatively, by varying above the advisory Guidelines range. We review for reasonableness. *See United States v. Mohamed*, 459 F.3d 979, 986-88 (9th Cir. 2006). The record indicates that the district court did not procedurally err, and that the sentence is substantively reasonable. *See Gall v. United States*, 128 S. Ct. 586, 596-97 (2007); *see also United States v. Carty*, 520 F.3d 984, 991-93 (9th Cir. 2008) (en banc).

AFFIRMED.